Oct 11 8 19 AM '94 0693c/CPA93-255/far GRANT WOODS 2 Attorney General STATE OF AREZONIA SYDNEY K. DAVIS, Chief Counsel, #004041 3 Consumer Protection & Antitrust Section Felecia A. Rotellini - #011070 Assistant Attorney General 4 OCT 1 3 1994 Department of Law Building, Room 259 1275 West Washington Street 5 DEPARTMENT OF INSURANCE Phoenix, Arizona 85007 6 Telephone: (602) 542-3702 7 8 STATE OF ARIZONA 9 DEPARTMENT OF INSURANCE In the Matter of the 10 Docket No. 8187-A 11 COMMERCIAL ACCEPTANCE INSURANCE COMPANY, CONSENT ORDER 12 Respondent. 13 14 An Order to Cease and Desist was entered by the Director 15 ("Director") of the Arizona Department of Insurance 16 ("Department") on September 3, 1993, wherein the Department made 17 certain allegations of violation of A.R.S. Title 20 committed by Respondent Commercial Acceptance Insurance Company 18 19 ("Respondent"). On September 23, 1993, Respondent submitted a 20 Response and Request for Hearing. A Notice of Hearing was issued 21 on September 24, 1993. An Amended Order of Cease and Desist was 22 issued on November 1, 1993. Respondent filed a Response to the 23 Amended Order and Renewed Request for Hearing on March 18, 1994. 24 Respondent has received a copy of the 25 Notices of Hearing, has been advised of its rights to a hearing

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which it waives.

For the purpose of resolving this matter, Respondent admits the following Findings of Fact and consents to the following Conclusions of Law and Order.

FINDINGS OF FACT

- Respondent is not authorized to transact insurance in Arizona and is an alien company organized and existing under the laws of Barbados.
- 2. From July 1991, to October 1991, group disability insurance was transacted in Arizona on behalf of Respondent by M & M Management Corporation, Benefit Data Administrators, Inc., Arthur A. Haney, A. A. Haney & Associates, Combined Employers Association, Inc., Western Businessmen's Association and other affiliates who held themselves out to be authorized by Respondent to engage in such transactions. Respondent contends that these persons and entities lacked actual, implied or ostensible authority to engage in the sale of insurance on behalf of Respondent and it was unaware of such activities.
- 3. In October 1991, Respondent caused the unauthorized activity by these persons to cease.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter.
- 2. The above described conduct constitutes the unauthorized transaction of insurance within the meaning of A.R.S. §§ 20-106, 20-107, 20-206, and 20-401.01.

ORDER

NOW THEREFORE, IT IS ORDERED:

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1. Respondent shall forever cease and desist from the transaction of the business of insurance in the state of Arizona until it has obtained a Certificate of Authority pursuant to A.R.S. §§ 20-107, 20-206 and 20-207.

- To the extent Respondent's liability and responsibility arising out of the above described unauthorized transaction of insurance, is finally adjudicated in courts of competent jurisdiction, Respondent shall agree to pay any such valid, adjudicated claims of Arizona residents who were policyholders or insureds as a result of the transactions referenced in paragraph 2 of the Findings of Fact and the obligation to pay shall constitute a requirement of restitution hereunder.
- Respondent, within thirty (30) days of the execution of this Consent Order, shall remit to the Department a portion of the Department's costs of investigation, legal representation and other expenses in the amount of \$5,000.00.

DATED in Phoenix, Arizona, this $\frac{13^{+n}}{1}$ day of October, 1994.

Director of Arizona Department

of Insurance

CONSENT TO ORDER

1. Respondent acknowledges that it has read the foregoing Findings of Fact, Conclusions of Law and Order and is

1 aware of its right to an administrative hearing in this matter 2 and has waived same. 3 2. The undersigned admits the jurisdiction of the 4 Department and admits the foregoing Findings of Facts and 5 consents to the entry of the foregoing Conclusions of Law and 6 Order. 7 3. The undersigned states that no promises were made 8 to it to induce it to enter into this Consent Order and declares 9 that it has entered into this Consent Order voluntarily. 10 4. The undersigned acknowledges that acceptance of the 11 Consent Order is solely for the purpose of resolving the matter. 12 as against it and does not preclude the Department, or any other 13 agency or officer of this State, or subdivision thereof, from 14 instituting other civil or criminal proceedings as may be 15 appropriate now or in the future. Similarly, acceptance of the 16 Consent Order does not preclude Respondent from pursuing claims 17 against others, in accordance with applicable law, including, 18 without limitation, the persons or entities reference in 19 paragraph 2 of the Findings of Fact, which claims Respondent 20 expressly reserves. 21 5. The undersigned waives all rights to challenge such 22 Findings of Fact, Conclusions of Law and Order on appeal or 23 otherwise, and agrees to be bound by the foregoing Order. 24 The undersigned hereby submits to personal 25 jurisdiction and agrees to accept service of subpoenas for the 26 production of documents or witnesses in cases currently pending

before the Department, Docket Nos. 8187 and 8426.

7. Undersigned represents that he/she is an officer of Respondent and has the authority to enter into this Order for and on behalf of Respondent.

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Title:

COPY of the foregoing mailed this /3^{rn} day of October, 1994 to:

Gay Ann Williams, Deputy Director
Charles R. Cohen, Executive Assistant Director
Jay Rubin, Assistant Director
Maureen Catalioto, Supervisor
Department of Insurance

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A.A. Haney & Associates, Inc.;
National Insurance Management, Inc.;
National Administrative Corporation,
Inc.; National Insurance Warehouse
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